

65 - INDEPENDENT AGENCIES - REGULATORY

407 - PUBLIC UTILITIES COMMISSION

CHAPTER 306 - UNIFORM INFORMATION DISCLOSURE AND INFORMATIONAL FILING REQUIREMENTS

SUMMARY: This Chapter contains requirements for competitive electricity providers to disclose price, contract, resource mix, and emissions information to customers in a uniform format. The Chapter also contains requirements for informational filings by competitive providers.

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§ 1 DEFINITIONS

A. Aggregate. "Aggregate" means to organize individual electricity consumers into a group or entity for the purpose of purchasing electricity on a group basis.

B. Aggregator. "Aggregator" means an entity that gathers individual customers together for the purpose of purchasing electricity, provided such entity is not engaged in the purchase or resale of electricity directly with a competitive electricity provider, and provided further that such customers contract for electricity directly with a competitive electricity provider.

C. Broker. "Broker" means an entity that acts as an agent or intermediary in the sale and purchase of electricity but that does not take title to electricity, provided such entity is not engaged in the purchase or resale of electricity directly with a competitive electricity provider, and provided further that such customers contract for electricity directly with a competitive electricity provider.

D. Commission. "Commission" means the Maine Public Utilities Commission.

E. Competitive Electricity Provider. "Competitive electricity provider" means a marketer, broker, aggregator, and any entity selling electricity to the public at retail.

F. Customer. "Customer" means any person who has applied for, been accepted or is receiving generation service from a competitive electricity provider for retail use. This term includes an applicant to a competitive electricity provider when the context so indicates.

G. Generation Service. "Generation service" means the provision of electric power to a retail customer through a transmission and distribution utility but does not encompass any activity related to the transmission or distribution of that power.

H. GIS. "GIS" means the NEPOOL Generation Information System or successor system.

I. GIS Certificates. "GIS certificates" mean certificates created pursuant to the NEPOOL Generation Information System that represent attributes of electric power and that may be traded separately from the energy commodity.

J. ISO-NE. "ISO-NE" means the Independent System Operator of the New England bulk power system or successor organization

K. ISO-NE Control Area. "ISO-NE control area" means the area in which the ISO-NE operates the New England bulk power system.

L. Maritimes Control Area. "Maritimes control area" means the area in which the New Brunswick Power Corporation operates the Maritimes bulk power system.

M. Residential and Small Commercial Customers. "Residential and small commercial customers" means customers subject to the consumer protection provisions in Chapter 305, section 4 of the Commission's rules.

N. Standard Offer Provider. "Standard Offer Provider" means a provider of standard offer service chosen pursuant to Chapter 301 of the Commission's rules.

O. Transmission and distribution utility. "Transmission and distribution utility" means a person, its lessees, trustees, receivers or trustees appointed by a court, owning, controlling, operating or managing a transmission and distribution plant for compensation within the State.

§ 2 UNIFORM INFORMATION DISCLOSURE REQUIREMENTS

A. Purpose and Scope

1. Purpose. The purpose of this section is to ensure that customers are presented with consistent, accurate, and meaningful information by which to evaluate services offered by competitive electricity providers.

2. Scope. This section applies to competitive electricity providers, including standard offer providers, as specified in this section, except that this section does not apply to aggregators and brokers.

3. Applicability. This section applies only to generation service to residential and small commercial consumers. For purposes of this provision, residential and small commercial consumers are consumers subject to the customer protection provisions in Chapter 305, section 4 of the Commission's rules. Upon the request of customers that are not residential or small commercial customers, competitive electricity providers shall provide information comparable to that required by this section.

B. Information Disclosure Label

1. General. Each competitive electricity provider shall prepare information on a label for each price or product offering in a form that is consistent for all competitive electricity providers. The label shall present information in accordance with this subsection, and shall conform to all applicable state rules and regulations. The label shall be distributed in accordance with section 2(E).

2. Customer Information. The label shall contain a toll-free number of the competitive electricity provider for customer inquiries regarding the information displayed on the label. The competitive electricity provider customer representatives

must have sufficient knowledge of the contents of the label to respond to reasonable customer inquiries.

3. Resource Portfolio. The label shall contain information on the fuel mix and emissions characteristics associated with the competitive electricity provider's resource portfolio.

a. Determining the resource portfolio. Unless otherwise specified in this Chapter, for service within the ISO-NE control area, the resource portfolio of a competitive electricity provider shall be determined based on GIS certificates. For purposes of this provision, each competitive provider shall have a Maine GIS sub-account. For service within the Maritimes control area, the resource portfolio of a competitive electricity provider shall be determined using market settlement data or other relevant market data, that match generating resources of a provider to the load obligation of that provider no less frequently than on a 12-month basis. For purposes of this section, a competitive electricity provider must combine resources used for service in the ISO-NE control area and the Maritimes control area into a single resource portfolio unless the provider disaggregates its resource portfolio pursuant to section 2(B)(4)(d).

b. Label reporting period. The label reporting period shall be stated on the label. Except as otherwise provided, the label reporting period shall be the most recent 12-month period for which the necessary information is available.. If a competitive electricity provider has not operated in Maine for a long enough period to have 12-months of the necessary information available, but has operated such that more than 3-months of necessary information is available, the reporting period shall be the period for which the necessary information is available. If a competitive electricity provider has not operated in Maine for a long enough period to have more than 3-months of necessary information available, the competitive electricity provider shall report a reasonable projection of the resource portfolio and associated emissions characteristics that will be used to serve load in Maine over the following 12-month period.

c. Portfolio characteristics. For service within the ISO-NE control area, fuel mix and emission characteristics shall be determined based on GIS certificates. For service within the Maritimes control area, fuel mix and emission characteristics shall be those associated with generating units for unit specific entitlements or contracts and the system mix for system entitlements or contracts.

d. Disaggregation of resource portfolio. A competitive electricity provider may disaggregate its resource portfolio into segments or products and provide differentiated labels to particular customer groups. For service within the ISO-NE control area, a competitive electricity provider must verify the disaggregation through a separate GIS sub-account for the disaggregated segment or product. For service within the Maritimes control area, a competitive electricity provider shall be required to demonstrate to the Commission's satisfaction that its disaggregation is based on data that can be verified.

4. Fuel Mix. Each competitive electricity provider shall include on the label a list of each fuel sources in its resource portfolio and their corresponding percentages within the fuel mix. The labels shall identify and separately display those fuel sources that are eligible resources pursuant to Chapter 311 of the Commission's rules. The following fuel sources shall be separately identified on the label: biomass (includes landfill gas), coal, fossil fuel cogeneration, fuel cells, geothermal, hydro, municipal solid waste, natural gas, nuclear, oil, solar, tidal power, wind. The fuel mix shall be displayed in a format substantially similar to the sample label attached to this Chapter. The Director of Technical Analysis may authorize deviations from this provision.

5. Emissions

a. The following emissions shall be separately identified on the label: carbon dioxide (CO₂), nitrogen oxides (NO_x), and sulfur dioxide (SO₂). The Commission may determine by order that additional emissions should be included on the label.

b. Emissions for each emission category shall be computed as an annual average emission rate in pounds per megawatt-hour over the label reporting period. For each emission category, the emission rate of the resource portfolio shall be compared to a reference emission rate. For service within the ISO-NE control area, the reference emission rate shall be the New England regional average emission rate as determined by the GIS. For service within the Maritimes control area, the reference emission rate shall be the regional average emission rate in the Maritimes control area. In the event this emission rate is not readily available, the New England regional average emission rate as determined by the GIS may be used.

c. Unless otherwise specified in this Chapter, for service within the ISO-NE control area, the emission characteristics of the resource portfolio shall be determined based on GIS certificates. For service within the Maritimes control area, the emission characteristics of the resource portfolio shall be calculated using the most accurate available data.

d. The Commission may determine by Order that CO₂ emitted by individual facilities or categories of facilities may be offset so that lower emission amounts or zero emissions may be displayed on the label.

6. Format of Information Disclosure Label. The label shall be presented in a format substantially similar to the sample label attached to this Chapter.

7. Standard Offer Service. Each transmission and distribution utility shall prepare labels associated with standard offer service within its service territory. In the event there is more than one standard offer provider in a service territory, power source and air emissions information on the label shall be blended so that a single label is prepared. For this purpose, the label information shall be the weighted average of each provider's power sources and air emissions. The weights used shall be each provider's percentage of standard offer load. Transmission and distribution utilities shall charge standard offer providers for the costs of preparing the label pursuant to Commission approved rates.

C. Company Disclosure

Each competitive electricity provider that disaggregates its resource portfolio into price or product offerings pursuant to this section, shall prepare a company disclosure that aggregates the resource portfolio of all its price or product offerings within the ISO-NE or Maritimes control area, as applicable. The company disclosure shall contain the aggregated information in a form substantially similar to the "power sources" and "air emissions" portion of the label attached to this Chapter. The company disclosure shall explain in plain language why the aggregate information is different from that of the customer's price or product offering. The company disclosure report shall be provided to customers upon request. The competitive electricity provider shall notify customers of the availability of the company disclosure as part of the label information.

D. Terms of Service Document

1. General. Each competitive electricity provider that provides service to residential and small commercial customers shall prepare and distribute a document entitled "Terms of Service" as described in this section. The Terms of Service document shall be distributed according to the provisions of the Commission's customer protection rules, Chapter 305 § 4(B). The provisions of this subsection do not apply to standard offer service.

2. Contents. The Terms of Service document shall contain the following information:

- a. Actual pricing structure according to which the retail customer will be billed, including an explanation of price variability and price level adjustments that can cause the price to vary;
- b. Duration and kind of contract;

- c. Due dates of bills and consequences of late payment, including the amount of any late payment fee, interest, or finance charge assessed for late payment;
- d. Conditions under which a credit reporting agency is contacted for an applicant's credit history or under which the provider reports the customer's payment history to a credit reporting agency;
- e. Deposit requirements and interest on deposits;
- f. Limits on warranty and damages;
- g. Any and all charges, fees, and penalties;
- h. Information on estimated bills, third-party billing, deferred payments, if applicable to the customer's generation service;
- i. A conspicuous disclosure of the customer's five business day right of rescission of the contract without penalty, how this right may be exercised, and how to contact the provider orally, electronically or in writing to exercise this right;
- j. A toll-free number for customer complaints and the hours the customer can contact the provider for questions or complaints;
- k. A generic description of the standard offer generation service;
- l. How the retail customer will be notified of changes to items in the Terms of Service;
- m. Notice that the contract may be assigned or transferred to another competitive electricity provider without the customer's consent, if applicable;
- n. The existence of the "Do-Not-Call" list and how a customer can get on the list; and
- o. A statement on how a customer may contact the Commission to obtain information on consumer protection rights.

E. Distribution of Disclosure Label

1. Prior to Initiation of Service. Each competitive electricity provider shall provide the label to customers prior to the initiation of service. This provision does not apply to standard offer service.

2. After Initiation of Service. Each competitive electricity provider that provides generation service to residential and small commercial customers shall provide labels to those customers once each calendar quarter. Competitive electricity providers may provide labels to all its customers at the same time.

3. Upon request. The label shall be available upon request to any person eligible to obtain the associated service.

4. Standard offer service. Each transmission and distribution utility shall distribute to standard offer customers the labels associated with standard offer service within their service territory. The labels shall be provided to residential and small commercial standard offer customers within 3 months after the initiation of standard offer service by a new standard offer provider and at 3 month intervals thereafter. The labels shall be provided to customers that are not residential and small commercial customers within 3 months after the initiation of standard offer service by a new standard offer provider and annually thereafter. Transmission and distribution utilities shall charge standard offer providers for the costs of distributing the label pursuant to Commission approved rates, terms and conditions.

5. Competitive provider service. The Commission by order may require that each transmission and distribution utility, upon the request of a competitive electricity provider, prepare and distribute labels associated with generation service within their service territory. Transmission and distribution utilities shall charge competitive electricity providers for the costs of preparing and distributing the label pursuant to Commission approved rates, terms and conditions.

F. Information Disclosure in Advertising

A competitive electricity provider shall state the availability of the disclosure label prepared pursuant to this section in a prominent position in all written marketing materials promoting available generation service, including direct mail materials, newspaper, magazine, and other written advertisements, and in all electronically-published advertising including Internet materials. Where available generation services are marketed in non-print media, the marketing materials shall indicate that the customer may obtain the disclosure label upon request. Any competitive electricity provider website that promotes the availability of generation service must also contain access to the disclosure label.

G. Enforcement

Dissemination of inaccurate information, or failure to comply with the Commission's regulations on information disclosure, may result in suspension or revocation of the competitive electricity provider's license or other sanctions in accordance with Chapter 305 § 3.

H. Verification; Annual Reporting

1. Provider Obligation. Each competitive electricity provider has the obligation to verify compliance with the provisions of this section.

2. Verification Method. Beginning with service in the year 2002, competitive electricity providers must verify compliance with this Chapter as specified in this provision.

a. ISO-NE Control Area. Beginning in the year 2002, competitive electricity providers that serve customers in the ISO-NE control area, must verify the accuracy of the label information through GIS certificates. For purposes of compliance with this provision, all competitive electricity providers must have at least one Maine GIS sub-account. The Commission may allow verification through means other than GIS certificates upon a showing that a competitive electricity provider reasonably relied on the Commission's prior rules or for other good cause. Entities that have purchased the contractual rights to the output of transmission and distribution utility qualifying facility entitlements that have not been provided associated GIS certificates may use the contractual rights to the output of the entitlements to verify the accuracy of label information.

b. Maritimes Control Area. Competitive electricity providers that serve customers in the Maritimes control area must verify the accuracy of the label information through market settlement data and other documentation that reveal the resources used to serve customers and the emission characteristics of those resources.

3. Annual Reports. On or before July 1 of each year, each competitive electricity provider shall submit an annual report that contains information that supports the accuracy of disclosure labels provided over the prior calendar year. At a minimum, the annual report must include the following information for the prior calendar year:

a. Copies of disclosure labels provided to customers during the reporting period.

b. Reports from the GIS Administrator for service in the ISO-NE control area.

c. A description of the resources used to serve customers in the Maritimes control area and information verifying the accuracy of the resource portfolio and the emission characteristics associated with the resource portfolio.

d. Verification of the accuracy of the disaggregation of the company resource portfolio into segments or products, if applicable.

4. Additional Information. The Commission may at any time request and obtain information from a competitive electricity provider that the Commission determines is needed to verify the accuracy of the information contained on disclosure labels.

5. Audits. The Commission may at any time conduct an audit of any competitive electricity provider to verify the accuracy of the information contained on disclosure labels. Upon request by the Commission, a competitive electricity provider must provide any information that the Commission determines is needed to conduct the audit and verify compliance with this section.

6. Rejection of Certificates. The Commission may reject the use of certain GIS certificates for purposes of disclosure label information if it finds that the GIS certificates do not reflect accurate information, to avoid the double counting of electricity attributes or for other good cause.

7. Generation Facilities. The Commission may at any time conduct an investigation into whether GIS certificates represent accurate information. The Commission may request and obtain information from generation facilities that the Commission determines is needed to verify the accuracy of information contained on a disclosure label. The Commission may reject the use of GIS certificates pursuant to section 2(H)(6) of this Chapter if a generation facility does not comply with an information request made pursuant to this provision.

8. Confidentiality. The Commission may subject any information required pursuant to this subsection to appropriate protective orders.

§ 3 INFORMATIONAL FILINGS

A. Generally Available Service

1. Filing Required. Competitive electricity providers must file with the Commission rates, terms, and conditions of any service generally available to the public or any segment of the public prior to offering the service. This subsection does not apply to standard offer service.

2. Modification. Competitive electricity providers must file any modifications to generally available rates, terms and conditions prior to the effective date of the modification.

3. No Approval. The generally available rates, terms and conditions are for informational purposes and do not require Commission approval.

B. Individual Service Contracts

Competitive electricity providers are not required to file individual service contracts. The Commission may at any time request and obtain individual service contracts from competitive electricity providers. The Commission may subject individual service contracts to appropriate protective orders.

C. Additional Information

The Commission may at any time request and obtain information from competitive electricity providers that the Commission determines is necessary or useful in carrying out its duties and obligations under Title 35-A, Chapter 32. The Commission may subject such information to appropriate protective orders.

D. Disclosure Labels

Competitive electricity providers must file with the Commission updated disclosure labels that are required to be provided to customers pursuant to section 2 of this Chapter.

§ 4 WAIVER OR EXEMPTION

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Commission may, for good cause, waive any of the requirements of this Chapter that are not required by statute. The waiver may not be inconsistent with the purposes of this Chapter or Title 35-A. The Commission, the Director of Technical Analysis, or the Presiding Officer assigned to a proceeding related to this Chapter may grant the waiver.

BASIS STATEMENT: The factual and policy basis for this rule is set forth in the Commission's Order Adopting Final Rule, Docket No. 2004-728, issued on June 21, 2005; Order Provisionally Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2005-728, issued on March 8, 2005; Order Adopting Final Rule, Docket No. 2002-580, issued on June 18, 2003; Order Provisionally Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2002-580, issued on February 14, 2003; and Order Adopting Rule and Statement of Policy Basis, Docket No. 2000-336, issued on May 1, 2000; Order Finally Adopting Rule, Docket No. 98-708, issued on June 29, 1999; and Order Provisionally Adopting Rule and Statement of Factual and Policy Basis, Docket No. 98-708, issued on February 13, 1999; Order Provisionally Adopting Rule, issued on March 8, 2005. Copies of the Statement and Order have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018.

AUTHORITY: 35-A M.R.S.A. §§ 104, 111, 1301, 3203(3), 3203(4); P.L. 1997, ch. 316, § 4, Resolves 1999, ch. 34; Resolves 2003, ch. 46; Resolves 2005, ch. 57.

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General **on 6-24-05**. It was filed with the Secretary of State on **6-27-05** and will be effective on **7-27-05**.

{Product Description}

Consumer Information About Your Electricity Supplier

{Month of mailing, year}

Electricity suppliers in Maine must, by Maine law, provide fact sheets, or “uniform disclosure labels” from time to time to educate consumers about their electricity service. Your electricity is delivered by {Name of T&D Company}, but the electricity itself is supplied by:

Your Electricity Supplier is: {Supplier's Name}

This fact sheet provides consumer information about the price, power sources and air emissions of service provided by this electricity supplier.

Power Sources

(January—December, 20xx)

This supplier provided electricity with the following resources:

	<u>Supplier's</u>	<u>{Region Name}</u>
	<u>Mix</u>	<u>Mix</u>
<i>Sources meeting Maine's 30% renewable and efficient resources requirement</i>		
Biomass	x.x %	x.x %
Fossil Fuel Cogeneration	x.x %	x.x %
Fuel Cells	x.x %	x.x %
Geothermal	x.x %	x.x %
Hydro	x.x %	x.x %
Municipal Waste	x.x %	x.x %
Solar	x.x %	x.x %
Tidal	x.x %	x.x %
Wind	x.x %	x.x %
<i>Other sources</i>		
Coal	x.x %	x.x %
Gas	x.x %	x.x %
Nuclear	x.x %	x.x %
Oil	<u>x.x %</u>	<u>x.x %</u>
TOTAL	100 %	100 %

Air Emissions

(January—December, 20xx)

This table compares air emissions from this supplier's electricity mix to average emission levels from all {Region Name} power sources .

	<u>Supplier's</u>	
	<u>Mix</u>	
	<u>(lbs/MWh)</u>	
Carbon Dioxide (CO₂)	X.X	This is x % {less/more} than the {Region Name} Average
Nitrogen Oxide (NO_x)	X.X	This is x % {less/more} than the {Region Name} Average
Sulfur Dioxide (SO₂)	X.X	This is x % {less/more} than the {Region Name} Average

*Notes: lbs/MWh = pounds per Megawatt-hour
1 Megawatt-hour = 1,000 kilowatt-hours*

Additional Information and Required Notes:

NOTES:

Power Sources— Maine law requires retail electricity providers to supply no less than 30% of their total annual kilowatt-hour sales with electric energy generated from eligible resources. Either a renewable fuel or an efficient process, such as co-generation, must be used to generate the electricity used to satisfy this requirement. Co-generation sometimes uses fossil fuels, such as gas, coal or oil, and is considered to be efficient because the process yields both electricity and thermal energy.

Emissions— Carbon Dioxide (CO₂) is released when certain fuels are burned. It is considered a greenhouse gas and a major contributor to global warming. Nitrogen Oxides (NO_x) form when certain fuels are burned at high temperatures. They are considered contributors to acid rain and ground-level ozone (or smog). Sulfur Dioxide (SO₂) is formed when fuels containing sulfur are burned. Major health effects associated with SO₂ include asthma, respiratory illness and aggravation of existing cardiovascular disease. The production of electricity can produce other harmful emissions and have other environmental impacts. Environmental impacts differ among individual power plants.

If you have questions or need further explanation, please contact {Name of Supplier} toll-free, at {phone #} 1-(888) 808-3826 or the Maine Public Utilities Commission, toll-free, at 1-877-782-3228. Additional information can also be found at <http://www.state.me.us/mpuc>.